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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,257	07/14/2008	Eral Foxenland	P50390025US2	6051
58561	7590	05/03/2010	EXAMINER	
HARRITY & HARRITY, LLP 11350 RANDOM HILLS ROAD SUITE 600 FAIRFAX, VA 22030			D AGOSTA, STEPHEN M	
		ART UNIT	PAPER NUMBER	
		2617		
		MAIL DATE		DELIVERY MODE
		05/03/2010		PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/589,257	FOXENLAND, ERAL	
	Examiner	Art Unit	
	Stephen M. D'Agosta	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 16 April 2010.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-5,8-15 and 17-30 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-5, 8-15 and 17-30 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Applicant's arguments filed 4-16-2010 have been fully considered but they are not persuasive.

1. The applicant argues that the (broad) claims are not rejected by the prior art (eg. claims 1, 9 and 20). The examiner disagrees for several reasons.

a. The examiner must give each claim its broadest, reasonable interpretation and he notes that the claims merely recite message transmission/reception filtering. While the claims put forth that the "mobile station" performs the filtering, the examiner notes that this is a design choice since various processing can be performed either by the network or by the mobile. Many examples exist for this type of concept, eg. location determination, power control, handoff, etc.. In each case, processing can be performed by the network, by the mobile or blended between the two. It truly depends upon the processing power of the mobile.

b. The examiner noted in his rejection that while Anderlind taught a more "network centric" model, client-server technology is well known and can allow processing by the mobile/client. The applicant did not address this point (?).

c. The applicant's claim does not empirically limit exactly how much of the filtering is performed by the network and by the mobile, hence the prior art put forth clearly reads on the claims since they teach a blended processing design (eg. by the network or by the mobile). Anderlind teaches most (if not all) of the processing being performed by the network while Ratschunas teaches the mobile performing much of the processing/filtering:

Also other conditions for receiving the message are possible. For example, an originator of the messages can be listed in a database of the terminal device, i.e., the mobile station. Hence, if a user of a terminal device is always interested to receive messages from a particular originator, this originator can be included in such a database. Then, receiving of the message can easily be permitted. Moreover, the

originator can belong to a group which is defined on the network side. Thus, if the user of the terminal device is always interested to receive messages from this originator group, this group can be listed in the database. Furthermore, the recipient of the messages can be in a specific state with respect to willingness to receive messages in general or messages of given type or category. The state of the recipient may be enquired by the deciding means. The category condition of the message may have been set at the originator side automatically by the network, e.g., in order to prevent advertisement type of messaging without permission. (page 5 to page 6)

Clearly the above passages show that filtering is performed at/by the mobile device.

- d. Eisinger was put forth to teach the use of geographical locations for message transmission/reception filtering.
- e. Lastly, KSR case law clearly dictates that mere "obvious to try" modifications with "known/predicted results" are not novel unto themselves. Hence the argument that the mobile device performs the processing/filtering is essentially moot since this is not uniquely challenging to one skilled and the results are obvious/predicted.

2. A more **favorable outcome may occur** if the applicant were to amend the longer/narrower claims as follows:

- >> Claim 5 + claim 4 and claim 8
- >> Claim 15 + claim 4 and claim 8
- >> Claim 21 + claim 4 and claim 8

This requires the design to include **BOTH** a time limit and a distance limit (where this combination is not found in the prior art).

NOTE: This amendment will not make the other shorter/broader claims novel.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 8-15 and 17-30 rejected under 35 U.S.C. 103(a) as being unpatentable over Anderlind and further in view of Ratschunas and Eisinger (***all prior art cited is from applicant's IDS.***)

As per **claims 1, 5, 9 and 13-14, 15, 17-19, 20-21, 22-24, 27-30**, Anderlind teaches a method for conditional displaying of an electronic message comprising at least one display condition for the message in a “message server” (Abstract, figure 4 and Para's #37 - #57), characterized by the steps of:

receiving the message from an external device (figure 4, S12)

determining the geographical position of the portable electronic device (Para #51)

determining whether the geographical position fulfills a geographical display condition of the message (Para #51); and

displaying the message in the portable electronic device if the at least one display condition is fulfilled (Para #51)

but is silent on the portable mobile device performing the functions/filtering.

Anderlind teaches a “message server” as providing the filtering since he claims that filtering by the mobile will cause battery drain (Para #61):

[0065] The method and system of the invention facilitates lower power consumption and advanced longevity of battery charges by allocating filtering tasks to the wireless data server, as opposed to the mobile station.

Hence one skilled understands that Anderlind has considered the filtering to be performed at EITHER the mobile or in the network (See Para #3 which teaches client-station filterin).

Further to this point is **Ratschunas**, who teaches a message filtering design whereby *the message can be filtered at either the network or mobile device* (Abstract teaches viewing a message, also see figure 1 showing mobile user and network for receiving/sending text/SMS/etc messages. While Ratschunas focuses on conditional “transmission” of a message, he also states that one can also provide for conditional “reception” of a message, page 5, L18-25 teaches the mobile determining to view/display a message from a particular originator. Also see page 5, L18 to page 6, L32. See page 5, L9-16 teaches location determination which is well known as well as page 5, L18 to page 6 L32 teaches using several different conditions in order to determine if the message should be displayed, eg. is the originator in the device’s directory/database or belong to a certain group, willingness to receive a certain type of message, is the user active or inactive, etc..

Note that Ratschunas does teach determining if a message is to be “sent” based on the location of the user (page 2, L22-27 teaches determining if a message should be sent as based on the location of the user):

“..When sending messages, it is often not always useful to transmit a message to a recipient MS. For example, in case such a message contains tourist information concerning a particular town, it is not useful to send this message to a user, who has left this town”.

Hence one skilled would also seek to provide this same service as based on receiving a message (eg. if the user is not in that area/town, then don’t display a message if received).

Similarly, **Eisinger** teaches a sending unit transmitting a message to users within a certain geographical area/position (Abstract, figure 1, Para #1-17)

It would have been obvious to one skilled in the art at the time of the invention to modify Anderlind, such that the portable mobile device performing the functions/filtering, to provide means for either the network or mobile/client to perform filtering.

With further regard to claims 5, 15 and 21, Anderlind teaches filtering a message as based on the location of the user while Ratschnas teaches filtering on various parameters (eg. location, etc) as based on the sending or receiving of a message, which reads on “comprising the step of entering said message, characterized by the steps of entering a at least one display condition comprising a geographical display condition for conditional displaying of the message; appending said display condition to said message; and entering a receiver address to which the message should be sent”. As seen above, if a user addresses/sends a message (per Ratschnas) AFTER a user has left an area/town, then it wouldn’t be delivered. The combination of art also teaches “and entering display conditions set by a transmitting user for conditional display of the message comprising: entering area(s)/location(s) in which the device should be located when the message is displayed; storing the message in the service node until the device is within the entered area and the forwarding the message to the recipient when in the entered area” since Anderlind teaches conditional message delivery, Ratschnas teaches the mobile processing/filtering messages and Eisinger teaches determining if/when **two** devices are proximate each other to receive a message. Also note that **Anderlind teaches only sending a message if the recipient is within a certain area/location. Also Ratschunas teaches determining if a message is to be “sent” based on the location of the user** (page 2, L22-27 teaches determining if a message should be sent as based on the location of the user):

“..When sending messages, it is often not always useful to transmit a message to a recipient MS. For example, in case such a message contains tourist information concerning a particular town, it is not useful to send this message to a user, who has left this town”.

Hence one skilled would also seek to provide this same service as based on receiving a message (eg. if the user is not in that area/town, then don’t display a message if received).

Similarly, Eisinger teaches a sending unit transmitting a message to users within a certain geographical area/position (Abstract, figure 1, Para #1-17).

As per **claims 2, 6, 15 and 20**, the combo teaches claim 1/5/13 or 14/19, where the determining whether the geographical position fulfills the geographical display condition comprises determining whether the portable electronic device is located within a geographical area specified by the geographical display condition (Anderlind teaches determining the user's location and/or if the user is near a certain location, Para #51, while Eisinger teaches a sending unit transmitting a message to users within a certain geographical area/position (Abstract, figure 1, Para #1-17)

As per **claims 3, 8, 11, 16, 24 and 25-26**, the combo teaches claim 1 or 2/5/9 or 10/any of 13 to 15/19, where the determining whether the geographical position fulfills the display condition comprises determining whether the portable electronic device is located within a certain distance specified by the geographical display condition from the location of another electronic device, which has transmitted the message (see Eisinger who teaches a sending unit transmitting a message to users within a certain geographical area/position but not to users outside that certain area with regard to the sending unit (Abstract, figure 1, Para #1-17, specifically Para #16).

As per **claims 4 and 10**, the combo teaches to any of the claims 1 to 3/9, further comprising the step of determining whether a time limit of a time display condition for indicating a final display time of the message has lapsed, wherein the step of displaying is executed if said time limit has not lapsed when the geographical display condition is fulfilled (Anderlind, Para #7 teaches using a TIMER, which can be used to displaying time-window. He also teaches providing time-sensitive data such as Stock or Sports scores which one skilled would provide a timer for as well, see Para #49. One skilled understands that any message that is time sensitive which has its timer expired will be purged).

As per **claim 12**, the combo teaches any the claims 9 to 11 , further comprising the step of receiving the geographical 35 position of the electronic communication device being a portable electronic communication device, from said device itself (the prior art all teach determining the location of the mobile which can occur in many different well known manners, to include Triangulation (AOA, TDOA, etc), use of GPS onboard the mobile, etc).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis West can be reached on 571-272-7859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen M. D'Agosta/
Primary Examiner, Art Unit 2617